

## § 2612.1

the State under the Carey Act, an application for right-of-way over such lands under Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 *et seq.*), shall be filed separately by the proposed constructor. Rights-of-way shall be approved simultaneously with the approval of the plan, but shall be conditioned on approval of the contract.

### Subpart 2612—Issuance of Patents

#### § 2612.1 Lists for patents.

When patents are desired for any lands that have been segregated, the State shall file in the BLM State Office a list of lands to be patented, with a certificate of the presiding officer of the State land board, or other officer of the State who may be charged with the duty of disposing of the lands which the State may obtain under the law, that the lands have been reclaimed according to the plan of development, so that a permanent supply of water has been made available for each tract in the list, sufficient to thoroughly reclaim each 160-acre tract for the raising of ordinary agricultural crops. If patents are to be issued directly to assignees, the list shall include their names, the particular lands each claims, and a certification by the State that each is an actual settler and has cultivated at least 20 acres of each 160-acre tract. If there are portions which cannot be reclaimed, the nature, extent, location, and area of such portions should be fully stated. If less than 5 acres of a smallest legal subdivision can be reclaimed and the subdivision is not essential for the reclamation, cultivation, or settlement of the lands; such legal subdivision must be relinquished, and shall be restored to the public domain as provided in a notice published in the FEDERAL REGISTER.

#### § 2612.2 Publication of lists for patents.

(a) *Notice of lists.* When a list for patents is filed in the State Office, it shall be accompanied by a notice of the filing, in duplicate, prepared for the signature of the State Director, or his delegate, fully incorporating the list. The State shall cause this notice to be published

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once a week for 5 consecutive weeks, in a newspaper of established character and general circulation in the vicinity of the lands, to be designated by the State Director, as provided in subpart 1824 of this chapter.

(b) *Proof of publication.* At the expiration of the period of publication, the State shall file in the State Office proof of publication and of payment for the same.

#### § 2612.3 Issuance of patents.

Upon the receipt of proof of publication such action shall be taken in each case as the showing may require, and all tracts that are free from valid protest, and respecting which the law and regulations and grant contract have been complied with, shall be patented to the State, or to its assignees if the lands have been settled and cultivated. If patent issues to the State, it is the responsibility of the State to assure that the lands are cultivated and settled. If the State does not dispose of the patented lands within 5 years to actual settlers who have cultivated at least 20 acres of each 160 acre tract, or if the State disposes of the patented lands to any person who is not an actual settler or has not cultivated 20 acres of the 160 acre tract, action may be taken to revert title in the United States.

### Subpart 2613—Preference Right Upon Restoration

#### § 2613.0–3 Authority.

The Act approved February 14, 1920 (41 Stat. 407; 43 U.S.C. 644), provides that upon restoration of Carey Act lands from segregation, the Secretary is authorized, in his discretion, to allow a preference right of entry under other applicable land laws to any Carey Act entryman on any such lands which such person had entered under and pursuant to the State laws providing for the administration of the grant and upon which such person had established actual, bona fide residence or had made substantial and permanent improvements.